

When a motor vehicle is returned for a refund of the purchase price under the New Vehicle Buyer Protection Act, the Department can only issue a credit memorandum or a refund to the retailer for the amount of tax paid attributable to the initial sale of that vehicle. See 86 Ill. Adm. Code 130.1501. (This is a GIL).

September 5, 2001

Dear Xxxxx:

This letter is in response to your letter dated July 31, 2001. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120 subsections (b) and (c), which can be found at <http://www.revenue.state.il.us/legalinformation/regs/part1200>.

In your letter, you have stated and made inquiry as follows:

This letter is to request a formal ruling regarding sales tax paid to your state's constituents who have had their vehicle 'bought back' by AAA. Presently, AAA is refunding sales tax directly to customers as part of the buy back program. It is imperative that a legal opinion is rendered to determine that AAA is entitled to a refund (or credit on a future sales tax return) of the sales tax returned by the consumer, even though, it was not AAA who originally remitted the tax to the state. I also need to know what documentation will be needed to support the refund request.

It would be greatly appreciated if this opinion could be issued as soon as possible so we may begin filing refund claims with your state.

Thank you for your anticipated cooperation and if I may be of any assistance, please contact me.

DEPARTMENT'S RESPONSE:

We are providing the following information in response to your letter under the assumption that the vehicles that are "bought back" by your company are being purchased from the initial vehicle purchaser in a manner similar to that required under Illinois' New Vehicle Buyer Protection Act.

Section 6 of the Retailers' Occupation Tax Act provides that "[f]or purposes of this Section, the tax is deemed to be erroneously paid by a retailer when the manufacturer of a motor vehicle sold by the retailer accepts the return of that automobile and refunds to the purchaser the selling price of that vehicle as provided in the New Vehicle Buyer Protection Act. When a motor vehicle is returned for a refund of the purchase price under the New Vehicle Buyer Protection Act, the Department shall issue a credit memorandum or a refund for the amount of tax paid by the retailer under this Act attributable to the initial sale of that vehicle. Claims submitted by the retailer are subject to the same restrictions and procedures provided for in this Act." 35 ILCS 120/6 (2000 State Bar Edition). See also subsection (a)(1) the enclosed copy of 86 Ill. Adm. Code 130.1501.

Under Illinois law stated above, the Department is only authorized to provide a credit memorandum or refund of sales tax to the retailer who made the initial sale of the vehicle. The Department cannot approve a claim for credit or refund from the manufacturer when it accepts the return of an automobile and refunds to the purchaser the selling price of that vehicle as provided in the New Vehicle Buyer Protection Act. Once the retailer's claim for credit or refund is approved, the benefit derived by the retailer from the credit or refund is a private contractual matter between the retailer and the manufacturer.

I hope this information is helpful. The Department of Revenue maintains a website, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of Section 1200.110(b) described above.

Very truly yours,

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